

2006 FCC Form 499-A Telecommunications Reporting Worksheet (Reporting Calendar 2005 Revenues)

Page 4

Block 3: Carrier's Carrier Revenue Information

301 Filer 499 ID [from Line 101]	New				
302 Legal name of reporting entity [from Line 102]	Compass Global, Inc.				
Report billed revenues for January 1 through December 31, 2005. Do not report any negative numbers. Dollar amounts may be rounded to the nearest thousand dollars. However, report all amounts as whole dollars.	Total Revenues	If breakouts are not book amounts, enter whole percentage estimates		Breakouts	
	(a)	Interstate (b)	International (c)	Interstate Revenues (d)	International Revenues (e)
See instructions regarding percent interstate & international.					
Revenues from Services Provided for Resale as Telecommunications by Other Contributors to Federal Universal Service Support Mechanisms					
<u>Fixed local service</u>					
Monthly service, local calling, connection charges, vertical features, and other local exchange service including subscriber line and PCCC charges to IXCs					
303.1 Provided as unbundled network elements (UNEs)					
303.2 Provided under other arrangements					
Per-minute charges for originating or terminating calls					
304.1 Provided under state or federal access tariff					
304.2 Provided as unbundled network elements or other contract arrangement					
305 Local private line & special access service					
306 Payphone compensation from toll carriers					
307 Other local telecommunications service revenues					
308 Universal service support revenues received from Federal or state sources					
<u>Mobile services (including wireless telephony, paging &amp; messaging, and other mobile services)</u>					
309 Monthly, activation, and message charges except toll					
<u>Toll services</u>					
310 Operator and toll calls with alternative billing arrangements (credit card, collect, international call-back, etc.)					
311 Ordinary long distance (direct-dialed MTS, customer toll-free (800/888 etc.) service, "10-10" calls, associated monthly account maintenance, PCCC pass-through, and other switched services not reported above)					
312 Long distance private line services					
313 Satellite services					
314 All other long distance services	\$ 25,520,006	0.73%	99.27%	\$ 186,486	\$ 25,333,520

Note: As stated in the instructions, for all revenues reported on this page, you must retain the Filer 499 ID and contact information for the associated customers. You must verify that each of these customers was a direct contributor to the federal universal service support mechanism for calendar year 2005 and that the customer is purchasing service for resale as telecommunications. These records must be made available to the administrator or the FCC upon request. The FCC website contains information on federal universal service contributors. (See instructions.)

PERSONS MAKING WILLFUL FALSE STATEMENTS IN THE WORKSHEET CAN BE PUNISHED BY FINE OR IMPRISONMENT UNDER TITLE 18 OF THE UNITED STATES CODE, 18 U.S.C. § 1001

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FCC Form 499-A  
April 2006

# 2006 FCC Form 499-A Telecommunications Reporting Worksheet (Reporting Calendar 2005 Revenues)

## Block 4-A: End-User and Non-Telecommunications Revenue Information

401 Filer 499 ID [from Line 101]	402 Legal name of reporting entity [from Line 102]	If breakouts are not book amounts, enter whole percentage estimates		Breakouts	
		Total Revenues		Interstate Revenues	International Revenues
		(a)	(b)	(c)	(d)
Report billed revenues for January 1 through December 31, 2005. Do not report any negative numbers. Dollar amounts may be rounded to the nearest thousand dollars. However, report all amounts as whole dollars. See instructions regarding percent Interstate & international.	New Compass Global, Inc.				
Revenues from All Other Sources (end-user telecom. & non-telecom.)					
403 Surcharges or other amounts on bills identified as recovering State or Federal universal service contributions					
<u>Fixed local services</u>					
Monthly service, local calling, connection charges, vertical features, and other local exchange service charges except for federally tariffed subscriber line charges and PCCC charges					
404.1 Provided at a flat rate including interstate toll service					
404.2 Provided without interstate toll included (see instructions)					
405 Tariffed subscriber line charges and PCCC charges levied by a local exchange carrier on a no-PIC customer					
406 Local private line & special access service					
407 Payphone coin revenues (local and long distances)					
408 Other local telecommunications service revenues					
<u>Mobile services (including wireless telephony, paging &amp; messaging, and other mobile services)</u>					
409 Monthly and activation charges					
410 Message charges including roaming, but excluding toll charges					
<u>Toll services</u>					
411 Prepaid calling card (including card sales to customers and non-carrier distributors) reported at face value of cards		\$ 29,039,253	3.12	96.88	905,204
412 International calls that both originate and terminate in foreign points		265,138	0%	100%	28,134,049
413 Operator and toll calls with alternative billing arrangements (credit card, collect, international call-back, etc.) other than revenues reported on Line 412					
414 Ordinary long distance (direct-dialed MTS, customer toll-free (800/888 etc.) service, "10-10" calls, associated monthly account maintenance, PCCC pass-through, and other switched services not reported above)					
415 Long distance private line services					
416 Satellite services					
417 All other long distance services					
418 Revenues other than U.S. telecommunications revenues, including information services, inside wiring maintenance, billing and collection customer premises equipment, published directory, dark fiber, Internet access, cable TV program transmission, foreign carrier operations, and non-telecommunications revenues (See instructions.)					

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## Block 4-B: Total Revenue and Uncollectible Revenue Information

				Breakouts	
				Interstate Revenues (d)	International Revenues (e)
419	Gross billed revenues from all sources (incl. reseller & non-telecom.) (Lines 303 through 314 plus Lines 403 through 418)	\$ 25,520,006		\$ 186,486	25,333,520
420	Gross universal service contribution base amounts (Lines 403 through 411 Lines 413 through 417) See Figure 4 in Instructions.	\$ 29,039,253		\$ 905,204	28,134,049
421	Uncollectible revenue/bad debt expense associated with gross billed revenues amounts shown on Line 419 [See Instructions Page 26]				
422	Uncollectible revenue/bad debt expense associated with universal service contribution base amounts shown on Line 420				
423	Net universal service contribution base revenues (Line 420 minus line 422)	\$ 29,039,253		\$ 905,204	28,134,049

## Block 5: Additional Revenue Breakouts

501 Filer 499 ID (from Line 101)

502 Legal name of reporting entity (from Line 102)

Filers that report revenues in Block 3 and Block 4 must provide the percentages requested in Lines 503 through 510. See page 27 of Instructions for limited exceptions.

Percentage of revenues reported in Block 3 and Block 4 billed in each region of the country. Round or estimate to nearest whole percentage. Enter 0 if no service was provided in the region.

		Block 3 Carrier's Carrier (a)	Block 4 End-User Telecom. (b)
503	Southeast: Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, and U.S. Virgin Islands	%	%
504	Western: Alaska, Arizona, Colorado, Idaho, Iowa, Minnesota, Montana, Nebraska, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming	%	%
505	West Coast: California, Hawaii, Nevada, American Samoa, Guam, Johnston Atoll, Midway Atoll, Northern Mariana Islands, and Wake Island.	%	%
506	Mid-Atlantic: Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania, Virginia, and West Virginia	%	%
507	Mid-West: Illinois, Indiana, Michigan, Ohio, and Wisconsin	%	%
508	Northeast: Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont	%	%
509	Southwest: Arkansas, Kansas, Missouri, Oklahoma, and Texas	%	%
510	Total (Percentages must add to 0 or 100.)	%	%

511 Revenues from resellers that do not contribute to Universal Service support mechanisms are included in Block 4-B, Line 420 but may be excluded from a filer's TRS, NANPA, LNP, and FCC Interstate telephone service provider regulatory fee contribution bases. To have these amounts excluded, the filer has the option of identifying such revenues below. As stated in the instructions, you must have in your records the FCC Filer 499 ID for each customer whose revenues are included on Line 511. (See instructions.)

		(a) Total Revenues	(b) Interstate and International
Revenues from resellers that do not contribute to Universal Service	\$		\$

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# 2006 FCC Form 499-A Telecommunications Reporting Worksheet (Reporting Calendar 2005 Revenues)

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Block 6: CERTIFICATION: to be signed by an officer of the filer

601 Filer 499 ID (from Line 101)

New

602 Legal name of reporting entity (from Line 102)

Compass Global, Inc.

Section IV of the instructions provides information on which types of reporting entities are required to file for which purposes. Any entity claiming to be exempt from one or more contribution requirements should so certify below and attach an explanation. (The Universal Service Administrator will determine which entities meet the *de minimis* threshold based on information provided in Block 4, even if you fail to so certify, below.)

603 I certify that the reporting entity is exempt from contributing to:

Universal Service ☐

TRS ☐

NANPA ☐

LNP Administration ☐

Provide explanation below:

604 Please indicate whether the reporting entity is

State or Local Government Entity ☐

I.R.C. § 501 Tax Exempt ☐

PUHCA § 34 (a)(1) Exempt ☐

605 I certify that the revenue data contained herein are privileged and confidential and that public disclosure of such information would likely cause substantial harm to the competitive position of the company. I request nondisclosure of the revenue information contained herein pursuant to Sections 0.459, 52.17, 54.711 and 64.604 of the Commission's Rules. ☒

I certify that I am an officer of the above-named reporting entity as defined on page 28 of the instructions, that I have examined the foregoing report and, to the best of my knowledge, information and belief, all statements of fact contained in this Worksheet are true and that said Worksheet is an accurate statement of the affairs of the above-named company for the previous calendar year. In addition, I swear, under penalty of perjury, that all requested identification registration information has been provided and is accurate. If the above-named reporting entity is filing on a consolidated basis, I certify that this filing incorporates all of the revenues for the consolidated entities for the entire year and that the filer adhered to and continues to meet the conditions set forth in Section II-B of the instructions.

606 Signature

607 Printed name of officer

First Dean

MI

Last Cary

608 Position with reporting entity

President / CEO

609 Business telephone number of officer

(201) - 802-0600

ext -

610 Email of officer || Required if available ||

dean.cary@compassglobal.net

611 Date

9/5/06

612 Check those that apply:

☒ Original April 1 filing for year ☐ New filer, registration only

☐ Revised filing with updated registration ☐ Revised filing with updated revenue data

Do not mail checks with this form. Send this form to: Form 499 Data Collection Agent c/o USAC 2000 L Street, N.W. Suite 200 Washington DC, 20036

For additional information regarding this worksheet contact: Telecommunications Reporting Worksheet information: (888) 641-8722 or via email: Form499@universalservice.org

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FCC Form 499-A  
April 2006

**EXHIBIT 6**

**USAC September 11, 2007 Rejection Letter  
Re. Compass Global revised 2005 Form 499-A Filing**



Universal Service Administrative Company

September 11, 2007

Attn: Jonathan Marashlian  
Compass Global, Inc.  
50 Tice Blvd., 3rd Floor  
Woodcliff Lake, NJ 07677

Form 499 Filer ID: 826216

**RE: 2005 FCC Form 499-A Revision Rejection**

The Universal Service Administrative Company (USAC) has completed a review of the Revised FCC Form 499-A that you submitted for the purpose of revising revenue reported by 826216 Compass Global, Inc. for the period 2004. Based on the information provided, we are unable to accept the revision because it was not filed within one year of the original submission.

If you wish to appeal this decision with USAC, your appeal must be postmarked no later than 60 days after the date of USAC's rejection letter. Appeals postmarked after 60 days from the date of this letter will be automatically dismissed.

In the event that you choose to appeal the decision, you should follow these guidelines:

- Write a "Letter of Appeal to USAC" explaining why you disagree with this Form 499-Q rejection letter and identify the outcome that you request.
- Be sure to refer to CC Docket No. 96-45 on all communication with the FCC.
- The appeal must identify the "Legal Reporting Name" and "Filer 499 ID".
- Provide necessary contact information. Please list the name, address, telephone number, fax number, and e-mail address (if available) of the person who can most readily discuss this appeal with USAC.
- Explain the appeal to the USAC. Please provide documentation to support your appeal.
- Attach a photocopy of this Revised Form 499-Q Rejection decision that you are appealing.
- Mail your letter to:  
Letter of Appeal  
USAC  
2000 L Street, NW, Suite 200  
Washington, DC 20036
- Appeals submitted by fax, telephone call, and e-mail will not be processed.

The response will indicate whether USAC:

- Agrees with your letter of appeal, and approves an outcome that is different from the Revised Form 499-Q Rejection Letter; or
- Disagrees with your letter of appeal, and the reasons therefore.

If you disagree with USAC's response to your "letter of appeal," you may file an appeal with the FCC within 60 days of the date USAC issued its decision in response to your "Letter of Appeal." Again, please note your appeal must be postmarked no later than 60 days after the date of the Appeal Decision. Appeals postmarked after 60 days from the date of USAC's response to your appeal will be automatically dismissed. The FCC rules governing the appeals process (Part 54 of Title 47 of the Code of Federal Regulations 54.719 – 54.725) are available on the FCC web site ([www.fcc.gov](http://www.fcc.gov)).

Please be sure to refer to CC Docket No. 96-45 on all communication with the FCC. The appeal must also provide your company's name and Filer ID, plus necessary contact information, including the name, address, telephone number, fax number, and e-mail address of the person filing the appeal. Unless the appeal is by ECFS, please include a copy of the decision at issue.

Appeals submitted via the United States Postal Service, should be sent to the address below (For security purposes, hand-delivered or messenger-delivered documents will not be accepted at this Washington, DC address):

Federal Communications Commission  
Office of the Secretary  
445 - 12th Street, SW  
Room TW-A325  
Washington, DC 20554

Documents sent by hand-delivery or messenger should be sent to the following address:

Federal Communications Commission  
Office of the Secretary  
9300 East Hampton Drive  
Capitol Heights, MD 20743  
(8:00 A.M. - 5:30 P.M. ET)

Appeals may also be submitted to the FCC electronically, either by the Electronic Comment Filing System (ECFS) or by fax. The FCC recommends filing with the ECFS to ensure timely filing. Instructions for using ECFS can be found on the ECFS page of the FCC web site. Appeals to the FCC filed by fax must be faxed to 202-418-0187. Electronic appeals will be considered filed on a business day if they are received at any time before 12:00 A.M. (midnight), Eastern Standard Time. Fax transmissions will be considered filed on a business day if the complete transmission is received at any time before 12:00 A.M.

If you have questions or concerns regarding this letter, please contact USAC Customer Service at (888) 641-8722 Option 1, Option 2.

Sincerely,

USAC

**EXHIBIT 7**

**USAC September 11, 2007 Rejection Letter  
Re. Compass Global revised 2006 Form 499-A Filing**





September 11, 2007

Attn: Jonathan Marashlian  
Compass Global, Inc.  
50 Tice Blvd., 3rd Floor  
Woodcliff Lake, NJ 07677

Form 499 Filer ID: 826216

**RE: 2006 FCC Form 499-A Revision Rejection**

The Universal Service Administrative Company (USAC) has completed a review of the Revised FCC Form 499-A that you submitted for the purpose of revising revenue reported by 826216 Compass Global, Inc. for the period 2005. Based on the information provided, we are unable to accept the revision because it was not filed within one year of the original submission.

**If you wish to appeal this decision with USAC, your appeal must be postmarked no later than 60 days after the date of USAC's rejection letter. Appeals postmarked after 60 days from the date of this letter will be automatically dismissed.**

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- The appeal must identify the "Legal Reporting Name" and "Filer 499 ID".
- Provide necessary contact information. Please list the name, address, telephone number, fax number, and e-mail address (if available) of the person who can most readily discuss this appeal with USAC.
- Explain the appeal to the USAC. Please provide documentation to support your appeal.
- Attach a photocopy of this Revised Form 499-Q Rejection decision that you are appealing.
- Mail your letter to:  
Letter of Appeal  
USAC  
2000 L Street, NW, Suite 200  
Washington, DC 20036
- **Appeals submitted by fax, telephone call, and e-mail will not be processed.**

The response will indicate whether USAC:

- Agrees with your letter of appeal, and approves an outcome that is different from the Revised Form 499-Q Rejection Letter; or
- Disagrees with your letter of appeal, and the reasons therefore.

If you disagree with USAC's response to your "letter of appeal," you may file an appeal with the FCC within 60 days of the date USAC issued its decision in response to your "Letter of Appeal." Again, please note your appeal must be postmarked no later than 60 days after the date of the Appeal Decision. Appeals postmarked after 60 days from the date of USAC's response to your appeal will be automatically dismissed. The FCC rules governing the appeals process (Part 54 of Title 47 of the Code of Federal Regulations 54.719 – 54.725) are available on the FCC web site ([www.fcc.gov](http://www.fcc.gov)).

Please be sure to refer to CC Docket No. 96-45 on all communication with the FCC. The appeal must also provide your company's name and Filer ID, plus necessary contact information, including the name, address, telephone number, fax number, and e-mail address of the person filing the appeal. Unless the appeal is by ECFS, please include a copy of the decision at issue.

Appeals submitted via the United States Postal Service, should be sent to the address below (For security purposes, hand-delivered or messenger-delivered documents will not be accepted at this Washington, DC address):

Federal Communications Commission  
Office of the Secretary  
445 - 12th Street, SW  
Room TW-A325  
Washington, DC 20554

Documents sent by hand-delivery or messenger should be sent to the following address:

Federal Communications Commission  
Office of the Secretary  
9300 East Hampton Drive  
Capitol Heights, MD 20743  
(8:00 A.M. - 5:30 P.M. ET)

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If you have questions or concerns regarding this letter, please contact USAC Customer Service at (888) 641-8722 Option 1, Option 2.

Sincerely,

USAC

**EXHIBIT 8**

**Compass Global Appeal of USAC Rejections of  
Revised 2005 and 2006 499-A filings,  
November 6, 2007**



## The CommLaw Group

STAMP & RETURN

HELEIN & MARASHLIAN, LLC  
1483 Chain Bridge Road  
Suite 301  
McLean, Virginia 22101

Telephone: (703) 714-1300  
Facsimile: (703) 714-1330  
E-mail: [mail@CommLawGroup.com](mailto:mail@CommLawGroup.com)  
Website: [www.CommLawGroup.com](http://www.CommLawGroup.com)

Writer's Direct Dial Number  
703-714-1313

Writer's E-mail Address  
[jsm@commlawgroup.com](mailto:jsm@commlawgroup.com)

November 6, 2007

RECEIVED

NOV 07 2007

VIA OVERNIGHT DELIVERY

Letter of Appeal  
Universal Service Administrative Company  
2000 L Street, N.W., Suite 200  
Washington, D.C. 20036

USAC

Signature *AWilliams*

Re: Compass Global, Inc. - Filer ID 826216  
USAC Denial of 2005 and 2006 FCC Form 499-A Revisions  
Letter of Appeal to USAC

To whom it may concern:

On September 11, 2007, the Universal Service Administrative Corporation ("USAC") refused to process the 2005 and 2006 FCC Form 499-A ("499-A") revisions submitted by Compass Global, Inc. ("Compass" or the "Company"). According to USAC, Compass' revised 499-As were rejected "because [they were] not filed within one year of the original submission." See Exhibits A and B (2005 and 2006 Revision Rejection letters). Through this letter filing, Compass hereby appeals USAC's decisions and seeks reconsideration thereof for the reasons set forth herein.

### BACKGROUND

On September 5, 2006, Compass improperly and mistakenly filed its original 2005 and 2006 499-As based on perceived and real pressures exerted by audit staff of the Federal Communications Commission's ("FCC") Investigations and Hearings Division ("IHD"). For several months prior to September 5, 2006, Compass had been in discussions with audit staff stemming from certain data requests associated with Section 64.1195 Compliance Survey letters, issued on June 9, 2006. See Exhibit C. Through a series of communications with audit staff over the ensuing months, management explained that Compass did not believe it was required to register with the FCC and file 499-As because it provided no retail telecommunications services during the relevant periods (i.e., 2004 through 2005 revenue years). See Exhibit D. Compass management became concerned that the IHD would open a formal investigation and, without consulting counsel, decided to register

as an Interstate Telecommunications Service Provider ("ITSP") and submit original 2005 and 2006 499-As on September 5, 2006.

Despite these submissions, on May 7, 2007, the IHD opened a formal investigation in File No. EB-06-IH-3060. Compass subsequently retained legal counsel to represent the Company in the investigation. Before responding to the IHD's May 7 Letter of Inquiry, counsel reviewed Compass' business methods and the services provided by the Company. Based on this review, counsel determined that Compass incorrectly reported revenue as "prepaid calling card" revenue in its initial 2005 and 2006 499-As. Counsel advised the IHD of these determinations in responses filed June 29 and July 30, 2007. See Exhibits E and F, respectively. On September 4, 2007, Compass filed revised 2005 and 2006 499-As to correct revenue reported in its initial 499-As submitted under duress less than twelve (12) months earlier.

Both the 2005 and 2006 initial 499-As erroneously identified the Company as a "prepaid calling card" provider and included revenue that was incorrectly reported based on regulatory classifications that are inaccurate, as a matter of law. USAC, NECA and other FCC Program administrators<sup>1</sup> generated invoices which substantially overstated Compass' contribution obligations based on the incorrectly reported revenue figures. Therefore, a significant portion of the charges invoiced by each of the FCC Programs' administrators is incorrect and not lawfully owed by Compass.

On September 4, 2007, consistent with the correct legal and regulatory classification of the Company's services, as explained to the FCC's IHD in File No. EB-06-IH-3060, Compass filed its revised 2005 and 2006 499-As. On September 11, 2007, USAC rejected these revised 499-As due to Compass' failure to file them within the twelve (12) month limitations period on filing 499-A revisions that result in a decreased USF contribution obligation. Compass believes USAC's determination is wrong and must be reconsidered or overturned by the FCC.

#### ARGUMENT

USAC should reconsider its decision to reject Compass' 2005 and 2006 499-A revisions and should accept them for processing for the following reasons:

1. The revisions were filed within twelve months of their initial submission and therefore waiver of the limitations period is proper;
2. In the alternative, USAC should reconsider its denial because USAC lacks the power to enforce the 12-month limitations period on downward revisions;
3. USAC's failure to reconsider its denial would result in an unfair outcome and unlawful taking of property without due process; and
4. USAC's failure to reconsider its denial is an abuse of discretion.

---

<sup>1</sup> NECA, the administrator of the Telecommunications Relay Services ("TRS") Fund, issued invoices for Compass' 2005 and 2006 contribution obligations based on the initial 499-As submitted September 5, 2006. Likewise, Neustar, Welch & Company and the FCC (administrators of carrier obligations to support the North American Numbering Plan, Local Number Portability and Annual FCC Regulatory Fees) issued invoices based on the erroneous 499-A submissions.

I. WAIVER OF THE 12-MONTH LIMITATION ON DOWNWARD 499-A REVISIONS IS JUSTIFIED

A. Waiver is proper because 2005 and 2006 499-A revisions were filed within twelve months of Compass' initial Form 499 submissions

Compass filed its 2005 and 2006 499-A revisions on September 4, 2006 (received at USAC on September 5, 2006). The receipt date is within 12-months of September 6, 2006, the date Compass initially filed its original 2005 and 2006 Form 499-As.

Waiver of the 12-month limitations period is appropriate in this circumstance because the underlying policy behind the limitations period is not undermined by USAC's processing Compass' revisions. The FCC's underlying policy is to provide filers with the incentive to correct errors within 12 months. Refusal to waive the 12-month limitations period and allow Compass' revision to be processed is inconsistent with the FCC's underlying policy objectives. Furthermore, USAC's refusal to process Compass' revised 499-As under the present circumstances would discriminate against Compass vis-à-vis all other filers. Such a discriminatory outcome cannot be avoided absent waiver because, by strictly adhering to the 12-month limit, USAC would eliminate Compass' ability to identify and resolve errors in its 2005 499-A, in its entirety. With respect to the 2006 499-A, such strict adherence to the 12-month limit would reduce the amount of time Compass had to identify and resolve errors by nearly one-half. These discriminatory outcomes are further illustrated below:

2004 Revenue Year

Strict Application of Filing Deadlines:	Filer Opportunity to Identify and Correct Reporting Errors:
Initial 2005 499-A due April 1, 2005	12 Months
Revised 2005 499-A due April 1, 2006	
Compass initial 2005 499-A filed September 6, 2006	Zero Months and zero opportunity to revise because revision deadline passed before initial 499-A filed.
Compass revised 2005 499-A filed September 4, 2007	

## 2005 Revenue Year

Strict Application of Filing Deadlines:	Filer Opportunity to Identify and Correct Reporting Errors:
Initial 2006 499-A due April 1, 2006	12 Months
Revised 2006 499-A due April 1, 2007	
Compass initial 2006 499-A filed September 6, 2006	Less than seven (7) Month opportunity to revise because revision deadline passed less than 7-months after initial 499-A filed.
Compass revised 2006 499-A filed September 4, 2007	

By comparison to all other filers, which are allotted a full 12-months to identify and resolve errors, strict application of the revision limitations period results in clear and unavoidable discrimination against Compass.

The very legal issue raised by Compass' appeal is currently the subject of a Conditional Petition for Review, now pending before the FCC. See *In the Matter of Heller Information Services, Inc., Request for Review of the Universal Service Administrative Company's Rejection of a Revised FCC Form 499-A for FY-2003*, Contingent Petition for Review, WC Docket No. 06-122 (Filed July 31, 2007) ("*Heller Petition*").

In the *Heller Petition*, the filer claims it submitted an original 2003 499-A containing incorrectly reported revenue figures at the insistence and direction of "a representative of Verizon." The filer made its original 2003 499-A filing on February 13, 2006, years after the 12-month deadline associated with the 2003 499-A. The filer subsequently learned of revenue reporting inaccuracies in the original 499-A and sought to correct these by filing a revised 2003 499-A on May 23, 2006. USAC rejected Heller's revised 2003 499-A based on the same grounds it denied Compass' 2005 and 2006 revisions – that is, based on application of the 12-month limitations period on downward revisions.

As argued in the *Heller Petition*, it would be unfair and contrary to FCC policy for USAC to strictly apply the 12-month limit to Compass. The 2005 and 2006 499-As were the first 499-As ever filed by Compass; both were filed well after the respective due dates; in fact, by the time Compass first filed its 2005 499-A, even the 12-month revision deadline applicable to that period had expired. Hence, strict application of the 12-month limit would mean Compass was under a strict liability standard when it submitted its initial 499-A – Compass had to be perfect, for it had absolutely no room for error. Such a strict liability standard does not apply to any other initial 499-A filer. All filers should be treated equally under the FCC rules, as such all filers must be given a reasonable opportunity to file revisions.

Indeed, as argued in the *Heller Petition*, strict application of the 12-month limit under the circumstances presented here is inconsistent with very reasoning and basis underlying the limitations period. See *Federal-State Joint Board on Universal Service; 1998 Biennial Regulatory Review*, CC Docket No. 96-45, Order, 20 FCC Rcd 1012 (WCB 2004) ("*Form 499-A Revision Order*"). In the Form 499-A

Revision Order, the FCC stated that the underlying purpose of the 12-month limitations period is to promote "administrative efficiency and certainty for the contribution systems for universal service" and to "ensure the stability and sufficiency of the federal universal service fund."

Under normal circumstances, then, it makes sense to impose a 12-month limit on downward revenue revisions because the timing of a filer's reported revenue can impact the amount of contributions collected and disbursed for a given funding period. However, the circumstances here (as with Heller) are anything but normal and they do not give rise to the same concerns. The downward revisions contemplated by the revised 2005 and 2006 499-As rejected by USAC would have no impact on the efficiency, certainty, stability, or sufficiency of the contribution systems.

In addition, in the *Form 499-A Revision Order*, the FCC found that "twelve months is ample time for a diligent filer to determine what revenues it earned the prior year." *Form 499-A Revision Order* at 1017. It went on to state that "Setting a twelve-month deadline for filing revisions to the 499-A [ ] gives contributors adequate time to discover errors, while providing incentive to submit accurate revenue information in a timely manner." *Id.*

Given this backdrop, Compass submits that in approving the 12-month limit, the FCC did not intend to foreclose any and all opportunities to correct late-filed reports, particularly when, as here, the initial 499-A being revised was filed well after the applicable annual 499 revision deadline. With respect to its 2005 and 2006 499-As, Compass identified errors and filed revisions within seven months of initially filing the 499-As; well within the 12-months deemed reasonable by both the FCC and USAC's Board of Directors. See Universal Service Administrative Company, Board of Directors Meeting, July 27, 1999 Minutes. [www.universalservice.org/board/minutes/board/072799.asp](http://www.universalservice.org/board/minutes/board/072799.asp). And, from a procedural perspective, since the 12-month limit is the creation of the USAC Board of Directors, it is within USAC's authority to waive the requirement and USAC need not seek FCC authorization. Such a waiver at the administer level is appropriate under the present circumstances.

#### B. Waiver is proper based on unique facts and circumstances

Waiver of the 12-month limit on downward revisions is also justified because of the unique factual and legal circumstances presented and because failure to do so would result in an inequitable outcome.

Compass filed the original 2005 and 2006 499-As at the urging of the FCC's IHD. Although, at the time, management believed the Company was neither required to register as an ITSP nor file *any* Form 499s, Compass felt compelled to file its 2005 and 2006 499-As in order to avoid a formal FCC investigation. Yet despite making these filings in good faith reliance on IHD audit staff's insistence that such filings were necessary to avoid a formal investigation, the IHD nonetheless instituted an investigation several months later. It was as a result of the formal investigation that Compass ultimately retained telecommunications legal counsel and subsequently determined that its 2005 and 2006 499-As had been filed in error, containing, as they did, erroneous revenue figures and other inaccuracies.

Compass cannot at first be directed by the IHD to file its Form 499-As in the context of an open "audit" or "survey of compliance" (and subsequent formal investigation) and then be refused an opportunity to revisit and redress those filings based on strict application of a procedural



regulation, particularly when, as here, the opportunity for filing a revision is entirely obviated or unduly restricted based on the timing of the initial 499-A filing.

## II. USAC LACKS AUTHORITY TO IMPOSE THE 12-MONTH LIMIT ON COMPASS' ABILITY TO FILE DOWNWARDLY REVISED 499-As

In the alternative to USAC's acceptance and processing of Compass' revised 2005 and 2006 499-As, either through waiver of the 12-month limitations period established by USAC's Board of Directors or otherwise, Compass hereby challenges the legality and enforceability of the limitations period, generally.

Section 254 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (the "Act"), provides generally for the equitable and nondiscriminatory contribution by telecommunications carriers to mechanisms established by the FCC and the Federal-State Joint Board to preserve and advance universal service.<sup>2</sup> Although its existence was not mandated by the Act, USAC was established at the direction of the FCC as an independent not-for-profit entity with the sole function of administering the USF and other universal service support programs.<sup>3</sup>

USAC does not possess any independent authority to create decisional or interpretative rules governing the USF programs. The FCC and the Federal-State Joint Board retain full authority and control over the USF programs, and USAC at all times remains subject to FCC oversight.<sup>4</sup> The limited responsibilities delegated to USAC are clear in the rules and regulations setting forth the scope of USAC's charter. Specifically, Sections 54.702(a) and (b) of the FCC's rules clearly state that USAC is responsible for administering the USF programs, including billing, collection and disbursement of USF funds.<sup>5</sup> In addressing early concerns over the role of USAC, the FCC has emphasized that USAC's functions are to be "exclusively administrative,"<sup>6</sup> noting that Section 54.702(c) expressly limits USAC's power by stating that USAC "may not make policy, interpret unclear provisions of the statute or rules, or interpret the intent of Congress. Where the Act or the FCC's rules are unclear, or do not address a particular situation, the Administrator shall seek guidance from the FCC."<sup>7</sup>

Despite the fact that USAC is clearly prohibited from establishing policy or addressing uncertainties in the administration of the USF on its own, it has clearly done so in this case. In denying acceptance of Compass' revised 2005 and 2006 499-As as explained in its September 11, 2007 letters, USAC has relied on its "previously adopted policy," approved by the USAC Board of Directors during a USAC Board of Directors meeting on July 27, 1999, limiting the period for carrier-initiated adjustments to USF submissions. According to an Action Item entitled,

<sup>2</sup> 47 U.S.C. § 254.

<sup>3</sup> See *Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, Federal-State Joint Board on Universal Service, Report and Order, 13 FCC Rcd at 25064, 25065-66 at ¶¶ 12, 14 (1998) ("1998 Joint Board Order").

<sup>4</sup> See *In the Matter of Federal State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, 9192 at ¶¶ 813-815 (1997) ("1997 Joint Board Order"); 1998 Joint Board Order at 25065 at ¶ 14; see also 47 U.S.C. § 254, et seq.

<sup>5</sup> 47 U.S.C. §§ 54.702(a)-(b).

<sup>6</sup> 1998 Joint Board Order at ¶ 15 (responding to comments of BellSouth, Sprint and US WEST).

<sup>7</sup> 47 U.S.C. §§ 54.702(c).

"Recommended Deadline for True-Up of Form 457," USAC's staff recommended the following to the Board:

"[b]eginning with the September 1, 1999, data submission; carrier initiated requests for changes in reported revenues be limited to 12 months . . . . Changes to prior submissions as a result of an audit of a carrier's revenue reported on the Form 457 would not be impacted by the proposed limitation."<sup>8</sup>

USAC's staff offered the following rationale to support adoption of the recommendation:

"Historically, USAC has accepted any changes in revenue information reported by telecommunications service providers, regardless of when the changes were reported. It is becoming increasingly burdensome administratively to continue accepting revisions to reported revenue information indefinitely . . . . Each time a change is reported that affects end-user billed revenue, it necessitates revising the service provider's billed amounts for the period impacted by the change."<sup>9</sup>

The adoption of such a policy is completely unauthorized and inappropriate.

First, if USAC's 12-month limit for acceptance of corrected USF filings is deemed to be justified and appropriate – which it is not – such a limit was not properly adopted by USAC as an administrative policy. Rather, if such a rule should be properly adopted, it would require the FCC to follow its normal notice and comment rulemaking procedures. A 12-month limit is more than a mere administrative or organizational measure. It is a decisional rule with potentially material adverse impacts on contributors as well as on the USF as a whole. In Compass' case, the automatic imposition of USAC's 12-month limit clearly results in such a materially adverse impact, as estimated below:

For 2004 Revenue Year (Reported in 2005 499-A):

FCC Program	Contribution Revenue Base as reported in initial 2005 499-A	Contribution Revenue Base as reported in revised 2005 499-A	Difference	Estimated Impact on Liability or Overpayments
USF <sup>10</sup>	\$306,304.00	\$185,858.00	\$120,446.00	+ \$10,599.25
TRS**	\$8,920,865.00	\$5,487,766.00	\$3,433,099.00	+ \$18,126.60
Regulatory Fee <sup>***</sup>	\$8,920,865.00	\$5,487,766.00	\$3,433,099.00	+ \$7,484.15

2005 Total: \$36,210.00

<sup>8</sup> The specific resolution stated, "RESOLVED, That the USAC Board of Directors directs staff to no longer accept carrier initiated requests for changes in revenues reported on prior FCC Form 457 beyond 12 months from the initial submission of the Form in question." See *Action Item # aBOD05*, attached hereto as Exhibit 2.

<sup>9</sup> See *Action Item # aBOD05*.

<sup>10</sup> Application of international revenue exemption results in exclusion of international telecommunications revenue from USF contribution base.

\* Applicable USF contribution factor estimated to be 0.088 (Q1-8.7%, Q2-8.7%, Q3-8.9%, Q4-8.9%).

\*\* Applicable TRS contribution factor was 0.00528.

\*\*\* Applicable FCC Regulatory Fee factor was 0.00218.

For 2005 Revenue Year (Reported in 2006 499-A):

FCC Program	Contribution Revenue Base as reported in initial 2005 499-A	Contribution Revenue Base as reported in revised 2005 499-A	Difference	Estimated Impact on Liability or Overpayments
USF** <sup>11</sup>	\$905,204.00	\$560,758.00	\$344,446.00	+ \$36,339.00
TRS**	\$29,039,253.00	\$18,445,789.00	\$10,593,464.00	+ \$56,675.00
Regulatory Fee***	\$29,039,253.00	\$18,445,789.00	\$10,593,464.00	+ \$25,742.00

2006 Total: \$118,756.00

\* Applicable USF contribution factor estimated to be 0.1055 (Q1-10.7%, Q2-11.1%, Q3-10.2%, Q4-10.2%).

\*\* Applicable TRS contribution factor was 0.00535.

\*\*\* Applicable FCC Regulatory Fee factor was 0.00243.

All together, USAC's rejection of its revised 2005 and 2006 499-As based on the 12-month limitations rule forces Compass to pay close to \$155,000.00 (excluding amounts owed for LNP and NANP administration) more than it is statutorily required to contribute to USF, TRS and annual regulatory fees. Such an outcome is confiscatory and extremely damaging to a small, privately-held company like Compass.

USAC's adoption and imposition of such a rule, without public notice or comment, that clearly and demonstrably results in the confiscation of Compass' property without just cause violates basic notions of due process under the Fifth Amendment of the U.S. Constitution.<sup>12</sup>

Second, USAC's 12-month policy actually contravenes the rules that expressly contemplate that refunds will be given, without consideration of any time limit. Section 54.713 of the FCC's rules states that, "[o]nce a contributor complies with the Telecommunications Reporting Worksheet filing requirements, the Administrator may refund any overpayments made by the contributor, less any fees, interests, or costs."<sup>13</sup> Therefore, contrary to USAC's implication, the FCC's regulations contemplate that USAC *will provide refunds* to contributors. Under such circumstances, USAC does not possess independent authority to thwart the clear intent of the rules by refusing to accept and process Compass' revised 2005 and 2006 499-As, the acceptance of which would result either in

<sup>11</sup> *Id.*

<sup>12</sup> By contrast, we note that the Commission has used notice and comment procedures to adopt rules for refunds in other contexts, e.g., in cases concerning refunds of filing fees paid by applicants for commercial broadcast licenses. See *In the Matter of Applications of Wade Communications, Inc., Ellen R. Evans d/b/a Heartland Communications, and B.R. Clayton and Martha S. Clayton d/b/a Middleton Radio*, Memorandum Opinion and Order, 16 FCC Rcd 20708, 20710 at ¶ 7 (2001). See also *In the Matter of Implementation of Section 309(j) of the Communications Act - Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses*, First Report and Order, 13 FCC Rcd 15920, 15933 ¶ 32-33, 49 (1998).

<sup>13</sup> 47 C.F.R. § 54.713.

refunds of overpayments or application of appropriate credits to offset Compass' prospective funding obligations.

Third, USAC's rationale for adopting the policy contradicts the rules that govern its operations. The 12-month policy, adopted ostensibly to avoid an "administrative burden," ignores the provisions of Section 54.713 of the FCC's rules, which specifically permits USAC to receive compensation for administrative tasks. Because USAC is authorized to recover its costs for such tasks, arbitrary policies adopted to avoid the necessity for undertaking such tasks are completely unjustified.

Fourth, USAC attempts to support its position by stating that: "We are unable to accept the revision because it was not filed within one year of the original submission." Compass notes the corollary -- namely, that no FCC regulations *restrict* USAC from accepting a worksheet, nor do any FCC regulations govern the process by which it will accept, consider, or reject any worksheets filed out-of-time. Thus, USAC is without discretion to reject a corrected worksheet, whenever it is filed.

Finally, nowhere is there statutory or regulatory authority cited to support the USAC policy and nowhere is any indication given that USAC sought public comment or consulted with the FCC prior to adopting the policy. Thus, the adoption of, and reliance upon, such a policy directly violated the Administrative Procedures Act and contravenes express limits on USAC's discretion.

### III. USAC's 12-MONTH REVISION POLICY IS ARBITRARY AND AN ABUSE OF DISCRETION

Even if USAC is deemed to have the authority to adopt policies concerning the filing of corrected 499-As, the particular policy at issue here is manifestly arbitrary and unfair. As such, it is a complete abuse of USAC's discretion.

As an initial matter, USAC's policy is striking in its asymmetry. USAC has limited a carrier's ability to recover refunds, or adjust the reporting mechanism to accurately portray a contributor's revenues, beyond a date certain, but has accepted no corresponding limit on its own ability to conduct audits, impose changes to reported revenues, and collect underpayments. It is simply inappropriate for USAC to have such unequal and limitless discretion to recover revenues from carriers, while imposing an apparently strict limit on the ability of carriers to obtain refunds.

USAC justifies its policy in part with the argument that there are few indicia of reliability in Form 499 revisions beyond the 12-month deadline. However, USAC cannot have it both ways. If USAC feels confident that sufficient indicia of reliability exist for it to recover underpayments after a 12-month period, it should possess the same level of confidence that reliable indicia exist to support identification of overpayments and refunds due to a carrier, as the FCC's rules contemplate.<sup>14</sup>

<sup>14</sup> By analogy, the United States Internal Revenue Code permits taxpayers to file any claim for a refund within three years, 26 U.S.C. § 6511(a); and corresponding subjects the Internal Revenue Service ("IRS") to a general three year statute of limitations for filing suit for a deficiency assessment, 26 U.S.C. § 6501(a).

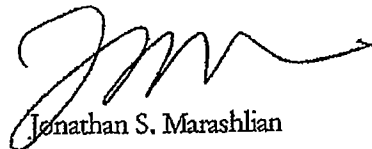
Absent a waiver of the 12-month policy here, the USF programs are unjustly enriched to the tune of more than \$155,000.00. Such a result flouts the FCC's directive that USAC recover all funds due in an equitable and nondiscriminatory manner,<sup>15</sup> and cannot be justified.

#### IV. CONCLUSION AND REQUEST FOR RELIEF

For all the reasons discussed above, we respectfully request USAC's reconsideration of its September 11, 2007 decisions rejecting Compass' 2005 and 2006 499-A revisions.

Please contact the undersigned at (703) 714-1313 with any questions concerning this Letter of Appeal of USAC Decisions.

Sincerely yours,



Jonathan S. Marashlian

HELEIN & MARASHLIAN, LLC  
The CommLaw Group  
Counsel for Compass Global, Inc.

Attachments

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<sup>15</sup> See generally, 47 U.S.C. § 254.

EXHIBIT A



Universal Service Administrative Company

September 11, 2007

Attn: Jonathan Marashlian  
Compass Global, Inc.  
50 Tice Blvd., 3rd Floor  
Woodcliff Lake, NJ 07677

Form 499 Filer ID: 826216

**RE: 2005 FCC Form 499-A Revision Rejection**

The Universal Service Administrative Company (USAC) has completed a review of the Revised FCC Form 499-A that you submitted for the purpose of revising revenue reported by 826216 Compass Global, Inc. for the period 2004. Based on the information provided, we are unable to accept the revision because it was not filed within one year of the original submission.

If you wish to appeal this decision with USAC, your appeal must be postmarked no later than 60 days after the date of USAC's rejection letter. Appeals postmarked after 60 days from the date of this letter will be automatically dismissed.

In the event that you choose to appeal the decision, you should follow these guidelines:

- Write a "Letter of Appeal to USAC" explaining why you disagree with this Form 499-Q rejection letter and identify the outcome that you request.
- Be sure to refer to CC Docket No. 96-45 on all communication with the FCC.
- The appeal must identify the "Legal Reporting Name" and "Filer 499 ID".
- Provide necessary contact information. Please list the name, address, telephone number, fax number, and e-mail address (if available) of the person who can most readily discuss this appeal with USAC.
- Explain the appeal to the USAC. Please provide documentation to support your appeal.
- Attach a photocopy of this Revised Form 499-Q Rejection decision that you are appealing.
- Mail your letter to:  
Letter of Appeal  
USAC  
2000 L Street, NW, Suite 200  
Washington, DC 20036
- Appeals submitted by fax, telephone call, and e-mail will not be processed.

The response will indicate whether USAC:

- Agrees with your letter of appeal, and approves an outcome that is different from the Revised Form 499-Q Rejection Letter; or
- Disagrees with your letter of appeal, and the reasons therefore.

If you disagree with USAC's response to your "letter of appeal," you may file an appeal with the FCC within 60 days of the date USAC issued its decision in response to your "Letter of Appeal." Again, please note your appeal must be postmarked no later than 60 days after the date of the Appeal Decision. Appeals postmarked after 60 days from the date of USAC's response to your appeal will be automatically dismissed. The FCC rules governing the appeals process (Part 54 of Title 47 of the Code of Federal Regulations 54.719 – 54.725) are available on the FCC web site ([www.fcc.gov](http://www.fcc.gov)).

2000 L Street, N.W., Suite 200, Washington, DC 20036 Voice (888) 641-8722 Option 2, Option 1 Fax (202) 776-0080  
Visit us online at: <http://www.universalservice.org>

Please be sure to refer to CC Docket No. 96-45 on all communication with the FCC. The appeal must also provide your company's name and Filer ID, plus necessary contact information, including the name, address, telephone number, fax number, and e-mail address of the person filing the appeal. Unless the appeal is by ECFS, please include a copy of the decision at issue.

Appeals submitted via the United States Postal Service, should be sent to the address below (For security purposes, hand-delivered or messenger-delivered documents will not be accepted at this Washington, DC address):

Federal Communications Commission  
Office of the Secretary  
445 - 12th Street, SW  
Room TW-A325  
Washington, DC 20554

Documents sent by hand-delivery or messenger should be sent to the following address:

Federal Communications Commission  
Office of the Secretary  
9300 East Hampton Drive  
Capitol Heights, MD 20743  
(8:00 A.M. - 5:30 P.M. ET)

Appeals may also be submitted to the FCC electronically, either by the Electronic Comment Filing System (ECFS) or by fax. The FCC recommends filing with the ECFS to ensure timely filing. Instructions for using ECFS can be found on the ECFS page of the FCC web site. Appeals to the FCC filed by fax must be faxed to 202-418-0187. Electronic appeals will be considered filed on a business day if they are received at any time before 12:00 A.M. (midnight), Eastern Standard Time. Fax transmissions will be considered filed on a business day if the complete transmission is received at any time before 12:00 A.M.

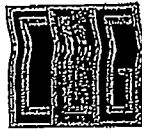
If you have questions or concerns regarding this letter, please contact USAC Customer Service at (888) 641-8722 Option 1, Option 2.

Sincerely,

USAC



RECEIVED SEP 05 2007



STAMP & RETURN

The CommLaw Group

HELEIN & MARASHLIAN, LLC  
1483 Chain Bridge Road  
Suite 301  
McLean, Virginia 22101

Telephone: (703) 714-1300  
Facsimile: (703) 714-1330  
E-mail: [mail@CommLawGroup.com](mailto:mail@CommLawGroup.com)  
Website: [www.CommLawGroup.com](http://www.CommLawGroup.com)

Writer's Direct Dial Number  
(703) 714-1313

Writer's E-mail Address  
[ism@commlawgroup.com](mailto:ism@commlawgroup.com)

September 4, 2007

VIA OVERNIGHT DELIVERY

Universal Service Administrative Company  
Attn: FCC Form 499 Data Collection Agent  
2000 L Street N.W., Suite 200  
Washington, DC 20036

RE: Compass Global, Inc.  
2005 Form 499-A - Revised

To Whom It May Concern:

Enclosed please find a revised 2005 Form 499-A, filed on behalf of:

Name:	Compass Global, Inc.
FCC Registration #:	0009-6902-56
Filer ID #:	826216

Compass originally filed its 2005 Form 499-A on or around September 5, 2006, at the urging of the FCC's Investigations and Hearings Division ("IHD"). Compass understands that it is USAC's policy to disallow downward revisions to Form 499-A if the revised form is remitted in excess of one (1) year from the original filing due date revisions (i.e., changes that would result in a decreased USF contribution).<sup>1</sup> However, Compass' revised 2005 Form 499-A presents a unique circumstance for which waiver of the one-way ratchet statute of limitations is appropriate.

<sup>1</sup> Filers shall submit any revised FCC Form 499-A Worksheet that would result in decreased contributions by March 31 of the year after the original filing due date. See Instructions to Telecommunications Reporting Worksheet at pg. 12; see also, *Federal-State Joint Board on Universal Service; 1998 Biennial Regulatory Review - Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanism; Changes to the Board of Directors of the National Exchange Carrier Association,*